REMARKS

Claims 1-24 are pending in the application.

Claims 1-24 are rejected under 35 U.S.C. § 103(a).

All remarks are made in a good faith effort to advance the prosecution on the merits. The Applicant reserves the right to subsequently take up prosecution on the claims as originally filed in this or appropriate continuation, continuation-in-part and/or divisional applications.

The Applicant respectfully requests reconsideration in light of the remarks contained herein.

Claim Rejections - 35 U.S.C. § 103

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al U.S. Pat. No. 6330639 in view of Wong-Insley U.S. Pat. No. 6131166.

As per Claim 1, the Examiner writes:

> "Fanning et al teaches the invention substantially as claimed including: a. Pooling data processing system memory devices in response to the at least one memory pooling profile [col. 8 lines 55-66].
> Fanning et al does not teach recalling at least one memory pooling profile in response to a user input. In summary , the user cannot manually control the performance level of the system memory devices.
> Wong-Insley teaches a plurality of pooling profiles, which can be recalled by a system [col. 10 lines 21-34]. The pooling profiles are interpreted as the system power states of Wong-Insley. It would be an obvious modification to Wong-Insley to allow the user to directly choose the appropriate power state in

that it would allow the user to customize the performance of the system to their needs.

It would be obvious to an ordinary person skilled in the art at the time the invention was made to modify Fanning et al by allowing a user to select at least one memory pooling profile so the user could customize the performance of the system to their needs."

The Applicant respectfully traverses the rejection. The Applicant has studied col. 10, lines 21-34 and the remainder of Wong-Insley and does not find language or teachings that support the Examiner's assertion. Moreover, the Applicant sees no teaching or suggestion in Wong-Insley of recalling at least one memory pooling profile in response to a user input. The Examiner only asserted that Wong-Insley supported the proposition that the *system* could recall some power settings, but not that the recall was due to the *user's input* as required in claim 1. In fact, Wong-Insley <u>teaches away</u> from the present invention by stating that the power change occurs in a "user-transparent way" *without* input from the user. Wong-Insley, col. 11, line 4. It is, therefore, respectfully requested that claim 1 is allowable over Fanning and Wong-Insley, either alone or in combination. Reconsideration and withdrawal of the rejection is respectfully requested.

As per Claims 2-5, the examiner writes:

"it is well known in the art that applications require different amounts of system memory resources to run properly; therefore it would be obvious that a user input to recall a memory pooling profile would consist of selecting an application to be run or a desired power/performance level."

The Applicant respectfully disagrees with the Examiner's assertion and submits that claim 1 is allowable over the prior art of record for reasons sited above. Moreover, as claims 2-5 ultimately depend upon claim 1, it is respectfully submitted that dependent claims 2-5 are

also allowable over the prior art of record. Reconsideration and withdrawal of the rejection is respectfully requested.

As per Claims 6-9, the examiner writes:

"Wong-Insley explicitly teaches a range of power/performance levels [col. 10 lines 21-33]."

The Applicant respectfully disagrees with the Examiner's assertion and submits that claim 1 is allowable over the prior art of record for reasons sited above. Moreover, as claims 6-9 ultimately depend upon claim 1, it is respectfully submitted that dependent claims 6-9 are also allowable over the prior art of record. Reconsideration and withdrawal of the rejection is respectfully requested.

As per Claims 10-11, the examiner writes:

"Fanning et al expressly teaches placing memory devices into different pools, which correspond to the desired states for those memory devices [col. 8 lines 55-62]."

The Applicant respectfully disagrees with the Examiner's assertion and submits that claim 1 is allowable over the prior art of record for reasons sited above. Moreover, as claims 10-11 ultimately depend upon claim 1, it is respectfully submitted that dependent claims 10-11 are also allowable over the prior art of record. Reconsideration and withdrawal of the rejection is respectfully requested.

As per Claims 12, 15-24, the examiner writes:

"these are rejected on the same basis as set forth hereinabove."

The Applicant respectfully traverses the rejection. The Applicant has studied col. 10, lines 21-34 and the remainder of Wong-Insley and does not find language or teachings that support the Examiner's assertion. Moreover, the Applicant sees no teaching or suggestion in

Wong-Insley of recalling at least one memory pooling profile in response to a user input. The Examiner only asserted that Wong-Insley supported the proposition that the *system* could recall some power settings, but not that the recall was due to the *user's input* as required in claim 12. In fact, Wong-Insley teaches away from the present invention by stating that the power change occurs in a "user-transparent way" *without* input from the user. Wong-Insley, col. 11, line 4. It is, therefore, respectfully requested that claim 12 is allowable over Fanning and Wong-Insley, either alone or in combination. Moreover, as claims 15-24 ultimately depend upon claim 12, it is respectfully submitted that dependent claims 15-24 are also allowable over the prior art of record. Reconsideration and withdrawal of the rejection is respectfully requested.

As per Claims 13 and 14, the examiner writes:

> **"it is obvious that nay signal bearing media would bear the means to recall a memory pooling profile in response to a user input. It is inherent that data should need to be provided to recall the memory pooling profile and it is well known that data needs to be stored on signal bearing media. It is well known that data can be stored on signal bearing media comprising a hard disk, CD, ROM, RAM and floppy disk. it is also known that the same data can be transmitted via web site, computer file and RAM."**

The Applicant respectfully disagrees with the Examiner's assertion and submits that claim 12 is allowable over the prior art of record for reasons sited above. Moreover, as claims 13-14 ultimately depend upon claim 12, it is respectfully submitted that dependent claims 13-14 are also allowable over the prior art of record. Reconsideration and withdrawal of the rejection is respectfully requested.

SUMMARY

In light of the above remarks, reconsideration and withdrawal of the outstanding rejection is respectfully requested. It is further submitted that the application is now in condition for allowance and early notice of the same is earnestly solicited. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile or electronic mail, as below.

Applicants believe that there are no fees due in association with this filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this a Petition Therefor, and direct that any additional fees be charged to Baker Botts L.L.P. Deposit Account No. 02-0383, *(formerly Baker & Botts, L.L.P.,)* Order Number 016295.1120.

Respectfully submitted,

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